

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,

THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 15825 of 2000

Between:

Kondabathula UmamaheswaraRao son of Krishnamurthy
H.No. 2-1-57, Podugu Narayana colony , Srikakulam Srikakulam District

..... PETITIONER

AND

The District Judge Srikakulam ,
Srikakulam Dist

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction or a writ more

particularly one in the nature of Writ of Mandamus declaring the action of the Hon'ble District Judge in not considering the petitioner for appointment on compassionate grounds, as illegal and arbitrary and consequently direct the Hon'ble District Judge to consider the petitioner's case for appointment on compassionate grounds to any suitable post.

Counsel for the Petitioner : MR.A.RAVI SHANKAR

Counsel for the Respondent : SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

.....

1 .Petitioner's father was serving as Record Assistant in District Court, Srikakulam, and it is alleged that on 03.05.1987 he left the house. Thereafter his whereabouts are not known despite thorough search. Petitioner was minor on that day. Mother of the petitioner lodged F.I.R., on 13.01.1986. It was registered as Crime No.35 of 1988 of Srikakulam Town Police Station. Despite investigation, the crime was closed as untraced. Petitioner was a minor and passed SSC., examination in 1992 and Intermediate examination in the year 1994. He also completed English typewriting lower grade examination. It appears that petitioner did submit a representation for being given appointment on compassionate grounds. Copy of the representation dated 16.08.1995 is attached to the writ petition. According to the allegations

made by the petitioner, in response to the said representation the petitioner was asked by District Judge to submit bio-data particulars showing his age, educational qualifications, etc., which, according to the petitioner, was submitted. He was also called for written examination and interview, but was not given employment. Petitioner is relying upon G.O.Ms.No.378, dated 24.08.1999 for seeking appointment on compassionate grounds on the ground that his father was missing and missing report was lodged within time. He submitted his representation for appointment, but there has been no consideration on his application.

2. Affidavit in reply had been filed by District Judge, Srikakulam, admitting that petitioner's father was working as Record Assistant and that departmental proceedings were initiated against him for unauthorised absence. In the meanwhile, petitioner's mother submitted an application dated 23.07.1987 for payment of salary, if any, leave encashment, G.P.F., etc. She appended the F.I.R., in Crime No.35 of 1988 dated 13.01.1988 of Srikakulam Town Police Station about missing of her husband since 03.05.1987. Petitioner's claim for family pension was considered and was granted. It is stated that record does not show that petitioner's mother made any application for appointment. He has referred to one of the representations of the petitioner seeking appointment as also G.O., aforementioned stating that case of such an applicant for compassionate appointment can be considered, but for want of guidelines as to whether said G.O., is applicable with retrospective effect or prospective effect, no action could be taken. It is stated that District Judge is not competent authority to consider the application since it relates to A.P. Judicial Department and High Court alone is competent to take decision.

3. G.O.Ms.No.378, dated 24.08.1999, do clarifies for considering the request for granting appointment on compassionate grounds after lapse of seven years from the date when the Government servant has been missing subject to certain conditions. In the instant case, most of the conditions are satisfied inasmuch as F.I.R., was got registered and police stated to have certified that

man is untraceable. Petitioner has shown that within one year after expiry of seven years from the date of registration of F.I.R., he had applied for compassionate appointment. Therefore, there is no manner of doubt that his application ought to have been considered in view of G.O.Ms.No.378, dated 24.08.1999, which has not been considered by the respondent. Accordingly we allow the writ petition with direction to the respondent to consider the request of the petitioner for appointment on compassionate grounds and appropriate decision be taken within two months from the

date of receipt of a writ order from this Court and be communicated to the petitioner. No costs.

DEVINDER GUPTA. C.J.,

B. SESHASAYANA REDDY. J.,

Dated: 23.12.2004.

VRK.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice, on this Thursday the Twenty Third day of December Two Thousand and Four.

To

1. The District Judge, Srikakulam ,
Srikakulam District.
2. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE B. SESHASAYANA REDDY.

-

W.P.NO. 15825 OF 2000.

**(Order of the Bench delivered by
Hon'ble The Chief Justice)**

Dt: 23.12.2004.

-